Chapter 9

The Future of Governance: Electronic Interaction

"…fundamental requirements scattered throughout many statutes in Tanzanian law that call for documents to be in writing, for "originals" of those documents to be presented when applying for one or the other government approval or other formality, or for a document to be authenticated by way of a "signature". The continued applicability of those types of traditionally "paper-based" requirements in the law has constituted an obstacle in Tanzania, as in other countries, to the introduction of or electronic commerce to replace or parallel what have traditionally been paper-based procedures."

Electronic Commerce For Economic Development And Modernization Of Governance In Tanzania – 1998

The last chapter addressed the top layer of the customer service model: the frontline employee. The underlying assumption was that while systems can be improved to reduce the variability introduced by human interaction, that part of the process must be strengthened. This chapter reverses direction, and discusses the role of electronic commerce which further reduces the role of the in-person service provider.

The rise of electronics and communications, particularly the Internet, has created huge opportunities for a forward-thinking government. Documents can be filed remotely, processed electronically, and approvals given with a much improved rate of transparency, accuracy, and speed. The most common argument against the move to electronic governance is the concerns about costs of equipment. In many cases, however, governments can become actively electronically with minimal increases in resources.

In fact, the greatest barrier facing the implementation of electronic government is not cost but legislation. This chapter will initially discuss methods of overcoming laws biased against electronic governance. The next part will discuss the applicability of Electronic Governance specifically on the Roadmap. Finally, the chapter will briefly resources for countries wishing to use electronics to vastly improve their Roadmaps.

Electronic Commerce Legislation

Many of Governments' resources are drastically underutilized by laws that do not permit the use of electronic communication. Traditionally paper-based societies have not responded as quickly as electronics have intruded onto the landscape. Businesses, in a competitive environment and forced to respond or perish, have, in most cases, adopted the new technologies and have adjusted the way they do business. Governments, typified by slow reactions, have not.

In Tanzania, the first country that has used the Roadmap to catalyze efforts to examine the benefits of electronic commerce, a number of activities clearly can be improved with the restructuring of laws that prohibit the acceptance of electronically transmitted information. The most notable is the import clearance process. There are several benefits that could come from new legislation:

- Most ships are equipped with technology to submit manifests through Electronic Data Interchange (EDI). Currently, manifests must be couriered from the point of departure to Dar Es Salaam. When ships leave ports that are nearby, the boats often arrive before the manifests causing the boat to wait at harbor. Laws admitting the electronically submitted manifests would allow the Tanzanian Harbours Authority to receive ships without delay
- The Pre-Shipment Inspection Company, SGS, would be able to communicate between its foreign branches and Tanzanian branch via secure Internet communications. This allows the transmittal of a Clean Report of Findings in a rapid manner.
- Legislation would pave the way for electronic clearance of goods and electronic funds transfers.

Zambia has already begun to rewrite its laws. Its newest Companies Act of 1998 allows for "…documentation, electronic or paper" when submitting filings in the Company Registrar's office. This far-sighted approach has preceded the Registrar's purchase of the appropriate computer equipment.

Three primary categories of governance would benefit the most from electronic interaction:

- Registration: This category includes such processes as company registration, intellectual property, land title, birth certificates and many others. Benefits include the improvement of processing times of new registrations, reduction of lost and misplaced documents, reduction of physical space required to store documents, and improved access to registered documents.
- Communication and Transaction: Under this category falls all of the interactions in which government provides service to an investor. Customs is probably the most significant potential benefactor from improved legislation, although other departments including licensing authorities, utility providers, and tax revenue offices could also benefit.
- Payment systems: much of Tanzania's banking systems and laws have been designed around a centrally-planned economy. While the banking sector has taken strides to upgrade its existing infrastructure, the improvement of laws will provide the legal comfort that is required by the private sector.

The United Nations Center for International Trade Law (UNCITRAL) recently released a new model law on Electronic Commerce. There are two avenues a national government can take to overhaul legislation blocking the legality of electronic transactions: one is to rewrite each law individually, a process that could potentially take many years in some countries.

The alternative, espoused by UNCITRAL, is to create sweeping legislation to redefine the terms "document" and "signature" to include electronic counterparts. Such legislation should have

- **a broad scope of application.** The model law pertains to any kind of information related to commerce

- **a "framework" law with modest aims.** The UNCITRAL approach is not to accept any sort of electronically transmitted information, but to create a legal foundation of acceptance
- **non-discrimination**. Laws should not discriminate against information on the ground of its "electronic pedigree".
- **electronic "functional equivalents"** – The UNCITRAL model is minimally intrusive on the existing laws. Rather than changing existing laws, it adds to the universe of acceptable submission.
- **evidential admissibility** – Electronically transmitted information should not be dismissed in a court of law because of its form.
- **clauses on retention of records –** The model law provides an avenue for the storage and retrieval of documentation.

Electronic Roadmaps

While the benefits of Electronic Commerce legislation reach beyond the investment process (indeed beyond the private sector), a country can make significant use of a electronically enabled landscape to facilitate FDI. Electronic communication is an exciting prospect for governments, investors, and donors alike.

The first country that has taken measures to place its Investor Roadmap on the World Wide Web is Zambia. Zambia has taken a multi tiered approach at making the Roadmap available for investors worldwide at the proverbial "click of a button." The Zambia Investment Center will first place the text of the procedures of the Roadmap on the Internet. This will allow a potential investor to get an official list of steps before the investor has left his/her home country. The rest of the implementation is envisaged as follows:

- Forms will be placed on the web-site for downloading and printing. This will eliminate the need to visit offices to collect forms (and risk having the stock of forms exhausted)
- The next stage will see the capability of the investor to complete the forms on-line and submit the forms electronically.
- The final stage is to create a single form which will electronically disseminate information to all of the agencies' forms thereby eliminating the repetitive act of reporting the same information to each of the government agencies.

This chapter is not intended to discuss the technical practicalities of communicating with investors electronically. Indeed, the Roadmap teams have deliberately avoided participating in the technical implementation of the project for several reasons. Most countries now have knowledgeable technical staff capable of web-site design and implementation. Use of foreign consultants on such a mission would not transfer skills leaving the project non-sustainable.

Instead, the remainder of this chapter will discuss the role of a roadmap consultant in facilitating the process on creating an Electronic Roadmap. The processing of electronic documents is a considerable departure for the existing processes. The consultants take on the activities of educating public sector officials on the myths and realities of electronic commerce; examine laws for barriers to electronic commerce (and recommend solutions); facilitate workshops of government officials to determine new

processes for the acceptance of electronic documentation; and assist in the creation of implementation plans.

The most significant role that the consultants play revolve around the elimination of barriers, legal, regulatory, procedural, or resource-based. The legal and regulatory barriers, as discussed above, can be removed via sweeping legislation that redefines "document" and "signature" to accept electronic equivalents. However, the latter two barriers must be resolved in similar manners as other Roadmap administrative barriers – through a government-owned approach.

One of the procedural barriers in Zambia was that in some agencies forms are sold, and are not freely distributed. This price was intended to a cost-recovery mechanism, but is, in practice, a revenue generating tool. This generated considerable discussion by government agencies that sold the forms. The resolution was to require fees to be paid on submission of documentation rather than acquisition of forms. Some agencies agreed to simply forgo the fees.

Other circumstances and considerations that were of concern in the introduction of electronic commerce include: uneven access to information and communication technology in both the public and private sectors; deficiencies in communications infrastructure; training needs; and a risk of fraud.

Of the list, the last is perhaps the most frequently stated fear of government officials, yet often the least compelling reason not to introduce the capacity. As stated in the Tanzania report:

> *"…it has been amply documented and recognized that fraud and corruption – to the extent that they may have been chronic and pervasive – have been so in the traditional paper-based environment of public administration and commerce. In Tanzania, as in other countries, paper-based documentation and procedures have been far from immune from fraud and corruption[1]. This basic fact must be remembered when considering the acceptance of electronic data procedures and formalities. In fact, there is a considerable weight of technical opinion that – if properly applied – electronic or "paperless" data generation, storage, and communication may provide in many cases a more secure environment than the traditional paper-based media and procedures"*

Resources

A legitimate concern of governments is the access to resources. In Zambia, The Department of Immigration's most up-to-date piece of office technology is an electronic typewriter. How, then, can a government participate in an electronic revolution?

In Zambia, which has a government characterized by high levels of inter-ministerial cooperation, government agencies relied on each other to make up for deficiencies. The Zambia Investment Centre (ZIC) agreed to play host and facilitator for the initiative.

---

[1] For example, one of the factors motivating the development of a new national payments system is the problem of fraud that is reported to have afflicted traditional paper-based, non-cash payment procedures and contributed to a lack of confidence in and diminished utilization of them *(Payments Systems Report*, pp. xiv, 99, 116, 119.

Acting on their role as a investment facilitator, the ZIC agreed to host all internet forms and processes on their site. This ensured a well-coordinated web-site, complete with all documentation.

As the project the project takes on the later stages of two-way communication with the investor, the ZIC will act as a clearinghouse with other agencies. Those agencies that have the means to communicate electronically will be able to receive completed forms via email. Those without the facility will receive documentation via hand-delivery or post from the ZIC.

What remains important is the interface with the customer. Whether information is distributed electronically or via paper delivery, the electronic "gateway" to the investor remains simple and unified. The inefficiencies that exist on the government end can be dealt with as resources become available.

Other solutions to resource constraints exist, including the use of farming out the electronic communication to the private sector. Most countries have well developed capabilities outside the public sector, with excess capacity. Many of these private sector electronic service providers are skilled in the nuances of electronic communication and remote service.